

Filed for intro on 02/09/95  
Senate Bill \_\_\_\_\_  
By \_\_\_\_\_

House No. HB0944  
By Wood

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AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 39, relative to providing notification when certain criminal offenders are released or move into certain areas.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 39, is amended by designating the existing sections as Part 1 and by adding the following as a new Part 2:

Section 40-39-201. Within forty-five (45) days after receiving notification pursuant to Tennessee Code Annotated, Section 40-39-106, that an inmate convicted of or adjudicated delinquent for a sexual offense as defined in Tennessee Code Annotated, Section 40-39-102, has been released from incarceration and has registered according to the requirements of Part 1 of this chapter, the chief of the local law enforcement

agency as defined in Tennessee Code Annotated, Section 40-39-102, where the inmate intends to reside shall provide notification in accordance with the provisions of Section 40-39-203 of this part of that inmate's release to the community. If there is no local law enforcement agency the commissioner of safety shall provide notification.

Section 40-39-202. After receipt of notification and registration pursuant to Section 40-39-106, that a person required to register pursuant to Part 1 of this chapter intends to change his address, the chief of the local law enforcement agency to which the person is relocating shall provide notification of that relocation to the community pursuant to Section 40-39-203 of this part. If there is no local law enforcement agency, the commissioner of safety shall provide notification.

Section 40-39-203.

(a) After consultation with members of the advisory council established pursuant to Section 40-39-206 of this part and within sixty (60) days of the effective date of this act, the Attorney General and Reporter shall promulgate guidelines and procedures for the notification required pursuant to the provisions of this part. The guidelines shall identify factors relevant to risk of re-offense and shall provide for three (3) levels of notification depending upon the degree of the risk of re-offense.

(b) Factors relevant to risk of re-offense shall include, but not be limited to, the following:

(1) Conditions of release that minimize risk of re-offense, including but not limited to whether the offender is under supervision of probation or parole; receiving counseling, therapy or treatment; or residing in a home situation that provides guidance and supervision;

(2) Physical conditions that minimize risk of re-offense, including but not limited to advanced age or debilitating illness;

(3) Criminal history factors indicative of high risk of re-offense, including:

(A) Whether the offender's conduct was found to be characterized by repetitive and compulsive behavior;

(B) Whether the offender served the maximum term;

(C) Whether the offender committed the sex offense against a child;

(4) Other criminal history factors to be considered in determining risk, including:

(A) The relationship between the offender and the victim;

(B) Whether the offense involved the use of a weapon, violence, or infliction of serious bodily injury;

(C) The number, date and nature of prior offenses;

(5) Whether psychological or psychiatric profiles indicate a risk of recidivism;

(6) The offender's response to treatment;

(7) Recent behavior, including behavior while confined or while under supervision in the community as well as behavior in the community following service of sentence; and

(8) Recent threats against persons or expressions of intent to commit additional crimes.

(c) The regulations shall provide for three (3) levels of notification depending upon the risk of re-offense by the offender as follows:

(1) If risk of re-offense is low, law enforcement agencies likely to encounter the person registered shall be notified;

(2) If risk of re-offense is moderate, organizations in the community including schools, religious and youth organizations shall be

notified in accordance with the Attorney General's guidelines, in addition to the notice required by subpart (1) of this subsection;

(3) If risk of re-offense is high, the public shall be notified through means in accordance with the Attorney General's guidelines designed to reach members of the public likely to encounter the person registered, in addition to the notice required by subparts (1) and (2) of this subsection.

(d) In order to promote uniform application of the notification guidelines required by this section, the Attorney General and Reporter shall develop procedures for evaluation of the risk of re-offense and implementation of community notification. These procedures shall require, but not be limited to, the following:

(1) The district attorney general of the county where the person was convicted and the district attorney general of the county where the registered person will reside, together with any law enforcement officials that either deems appropriate, shall assess the risk of re-offense by the registered person;

(2) The district attorney general of the county in which the registered person will reside, after consultation with local law enforcement officials, shall determine the means of providing notification.

(e) The Attorney General and Reporter's guidelines shall provide for the manner in which records of notification provided pursuant to this part shall be maintained and disclosed.

Section 40-39-204. Notwithstanding any other provision of law to the contrary, any person who provides or fails to provide information relevant to the procedures set forth in this part shall not be liable in any civil or criminal action. Nothing herein shall be deemed to grant any such immunity to any person for his willful or wanton act of commission or omission.

Section 40-39-205. Nothing in this part shall be construed to prevent law enforcement officers from providing community notification concerning any person who poses a danger under circumstances that are not provided for in this part.

Section 40-39-206. A notification advisory council is established to consult with and provide recommendations to the Attorney General and Reporter concerning the guidelines to be promulgated pursuant to Section 40-39-203 of this part. The council shall consist of twelve (12) persons who, by experience or training, have a personal interest or professional expertise in law enforcement, crime prevention, victim advocacy, criminology, psychology, parole, public education or community relations. The members of the council shall be appointed in the following manner: four (4) shall be appointed by the Governor, of whom no more than two (2) shall be of the same political party; four (4) shall be appointed by the Speaker of the Senate, of whom no more than two (2) shall be of the same political party; and four (4) shall be appointed by the Speaker of the House of Representatives, of whom no more than two (2) shall be of the same political party. Any vacancies occurring in the membership shall be filled in the same manner as the original appointments.

One (1) year after the effective date of this act, the Attorney General and Reporter and the council shall conduct a comprehensive review of the guidelines to determine whether any changes or revisions should be promulgated. Upon completion of that review and the submission of any recommendations thereon, the council shall expire.

Section 40-39-207. All rules, regulation and guidelines required to be promulgated pursuant to this Part shall be promulgated in accordance with the Uniform Administrative Procedures Act codified in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.

